

Rhode Island Department of Health

Health Policy Briefs

A Comparison of Federal and State Protections for Health Care Consumers

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Changes in the Health Care System Raise Concerns Regarding Consumer Protections

The health care system, both in Rhode Island and the United States as a whole, has continued its shift from "a pluralistic, fee-for-service system of independent practitioners to one characterized by consolidated, capitated systems based on integrated networks of managed care." This shift has raised concerns regarding consumer protections. In an effort to ensure that all health care consumers continue to receive high-quality and accessible health care, governments at both the Federal and State levels have taken steps to address health care consumer rights. At the Federal level, President Clinton recently directed all Federal health plans to come into substantial compliance with a "Consumer Bill of Rights." Likewise, Rhode Island state government has passed a series of laws providing consumer protections under managed care. This policy brief will review and compare the Consumer Bill of Rights with current Rhode Island law.

Consumer Bill of Rights and Responsibilities

In March of 1997, President Clinton established the Advisory Commission on Consumer Protection and Quality in the Health Care Industry. The commission was created to "advise the President on changes occurring in the health care system and recommend such measures as may be necessary to promote and assure health care quality and value. . ." To that end, the commission included in its final report a Consumer Bill of Rights and Responsibilities. These rights are organized into eight chapters: information disclosure, choice of providers and plans, participation in treatment decisions, respect and nondiscrimination, confidentiality of health information, complaints and appeals, and consumer responsibilities.

Managed Care Regulation in Rhode Island

An analysis of state law shows that Rhode Island already provides for extensive consumer protections under managed care and meets most of the

recommendations listed in the Consumer Bill of Rights. Three major laws regulate managed care organizations in the state:

Health Maintenance Organizations (27-41.1, 1983)

A Health Maintenance Organization (HMO) is defined as "an entity that provides, offers, or arranges for coverage of designated health services needed by plan members for a fixed, prepaid premium." In Rhode Island, HMOs are regulated by the Health Maintenance Organization Act. This act, which provides for the licensure and certification of HMOs, was originally based on model legislation provided by the National Association of Insurance Commissioners. HMOs must meet a number of Department of Business Regulation criteria in order to be certified, including solvency and insurance related requirements, as well as Department of Health standards for access, quality, and continuity of care.

Utilization Review (23-17.12, 1992)

Utilization Review (UR) is "the prospective or concurrent assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider given or proposed to be given to a patient or group of patients." Utilization Review is considered a central component of managed care in part because of its effectiveness in controlling costs. Given the importance of UR in managed care, the UR Act is regarded as a lynch pin in the Department of Health's regulation of the managed care industry. A health plan may perform UR itself, or it may contract with a separate company specializing in utilization review. The UR Act provides for the certification of agents who conduct UR. Fifty-seven UR agents are currently operating in Rhode Island. As an example of the importance of their activity in the state, these agents received over 300,000 requests for reviews of medical services last year.

Health Plans (23-17.13, 1996)

The Health Care Accessibility and Quality Assurance Act (commonly called the Health Plan Act) broadly defines a health plan as "a health care entity . . . that provides for the delivery of care services to persons enrolled in such plan through arrangements with selected providers to furnish health care services, and/or financial incentives for persons enrolled in the plan to use the participating providers and procedures provided for by the plan." The Health Plan Act regulates many health plans not previously covered under the HMO or UR acts. The Act assures quality health care in three areas: the certification of health plans, the provision of provider protections, and consumer disclosure.

Rhode Island Already Meets Most of the Recommendations in the Consumer Bill of Rights

Table 1 compares each chapter of the Consumer Bill of Rights with the three managed care laws in Rhode Island (HMO, Health Plan, and UR). Each Rhode Island law was ranked according to how well it met the recommendations in the Consumer Bill of Rights. A designation of "high" meant that the Rhode Island law met over 75% of the requirements of the Consumer Bill of Rights. If the Rhode Island Law met 25-75% of the Federal requirements, it was assigned a "medium" designation. A "low" designation was assigned when the law met less than 25% of the recommendations.

In five out of eight chapters, both the HMO Act and the Health Plan Act met more than 75% of the Consumer Bill of Rights recommendations. However, they received only "medium" designations for the section on Access to Emergency Services. In this case, the Consumer Bill of Rights provides three recommendations, one of which is that health plans incorporate a "prudent layperson" clause in their policy. This means that health plans would reimburse consumers for emergency room care if the situation were considered an emergency by a prudent layperson. Neither the HMO act nor the Health Plan Act includes such language.

Likewise, the HMO Act and the Health Plan Act received "medium" designations in comparison to the Bill of Rights recommendations on participation in treatment decisions (chapter 4). Although these laws do include some of the recommendations in the Consumer Bill of Rights (e.g. give patients the opportunity to refuse treatment), other concerns are not addressed (e.g. encourage health professionals to discuss treatment options with patients in a culturally competent manner).

Chapter 8 of the Consumer Bill of Rights listed consumer responsibilities such as recommendations that patients maximize healthy habits and work collaboratively with providers in developing treatment plans. Since neither the HMO Act nor the Health Plan Act contained any such language, they were assigned "low" designations for this chapter.

The Utilization Review Act only applies to the Complaint and Appeal chapter of the Consumer Bill of Rights, in which case it met all recommendations given. For other chapters, the UR Act was listed as non-applicable (N/A).

TABLE 1

Bill of Rights		Rhode Island Laws		
<i>Chapter</i>	<i>Subject</i>	<i>HMO</i>	<i>Health Plan</i>	<i>Utilization Review</i>
Chapter 1	Information Disclosure	High	High	N/A
Chapter 2	Right to Choice of Providers and Plans	High	High	N/A
Chapter 3	Access to Emergency Services	Medium	Medium	N/A
Chapter 4	Participation in Treatment Decisions	Medium	Medium	N/A

Chapter 5	Respect and Nondiscrimination	High	High	N/A
Chapter 6	Confidentiality of Health Information	High	High	N/A
Chapter 7	Complaints and Appeals	High	High	High
Chapter 8	Consumer Responsibilities	Low	Low	N/A

Conclusion

Rhode Island law meets most of the recommendations of the Consumer Bill of Rights. Efforts to improve the quality of care in Rhode Island should focus on assuring access to emergency services and participation in treatment decisions, and on full implementation of our existing laws.

For Additional Information on this Subject:

Contact the Rhode Island Department of Health
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Sources

1. Patricia A. Nolan, MD, MPH, excerpt from a speech given on April 4, 1998.
2. The President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, <http://www.hcqualitycommission.gov>.
3. The Managed Care Resource, United HealthCare Corporation, 1994.
4. RIGL 23-17.12-2(8).
5. Rhode Island Department of Health, Office of Managed Care Regulation.
6. RIGL 23-17.13-2(H).